IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

WRIT PETITION NO.2678 OF 2006

Mudran Kamgar Seva Sanstha & Ors. ..Petitioners.

Vs.

State of Maharashtra ..Respondent.

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Mr. V.A. Thorat, Senior Advocate with Ms. Lakshmi Murali for the Petitioners.

Mr. A.A. Kumbhakoni, Associate Advocate General for the Respondent.

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CORAM: DR. D.Y. CHANDRACHUD, J.

19th October, 2006.

P.C. :

1. The proceedings before this Court have been instituted by 73 persons. All of them are in occupation of service quarters allotted by the State Government. 55 of the Petitioners retired from the service of the Government Printing Press from 1987, while 17 are heirs of retired government employees. Representations were submitted by the Petitioners from time to time for the retention of

the service quarters and it was not disputed that extensions have been granted. In 2002 notices to vacate were issued and since the Petitioners did not vacate their service quarters, proceedings were initiated under the Bombay Government Premises (Eviction) Act, 1955. By an order dated 31st May, 2003 the competent authority called upon the Petitioners to vacate the service quarters by September 2003 failing which it was stated that the Petitioners would be evicted under Section 4(1)(a)(ii) of the Act. The Petitioners did not vacate but, acting on their representation, the Petitioners were granted three months time to vacate by a letter dated 5th December, 2003.

2. On 18th January, 2005 a representation was made to the State Government for allotment of land on ownership basis and for extension of the period of stay. The representation was rejected on 17th February, 2006 and the application made by the Petitioners for transferring the existing tenements on ownership basis or for transferring a portion of the land on which the service quarters are situated and/or for allotting a portion of Survey No.141 A, CTS No.

833 to the Petitioners was rejected. In the affidavit in reply filed in these proceedings by the Director, Government Printing and Stationary, it has been stated that as a matter of policy the State Government does not have any such scheme to make permanent residential accommodation available to existing employees or to convert government service quarters for allotment on ownership basis.

3. In a similar situation where a batch of petitions was filed by an association representing allocated government servants, a Division Bench of this Court by a judgment and order dated 28th September, 2006 dismissed the petitions (Association of Allocated Government Servants v. The State of Maharashtra – Writ Petition 402 of 2006 and companion petitions) with the following observations :

> "It is not possible to accept the contention on behalf of the petitioners that these 67 and/or families of deceased members have a legitimate expectation to continue in the Government premises. The Government premises are service accommodation to be occupied till such time that the employee is in service in terms of the Rules and can continue to occupy for the period which the Rules permit. In the instant case the ex-employees and their families

> continue to reside for several years though they have no such right. The State has stayed the order of eviction from time to time. Once the State Government made its decision and informed the Union of India that they could not accommodate these allocated Government employees in our opinion nothing further survives and the occupation of these persons is illegal. Considering the judgment of the Supreme Court in Civil Appeal No.4064 of 2004 S. D. Bandi v. Divisional Traffic Officer, K. S. R. T. C. and others, the State Government is bound to comply with the directions of the Supreme Court. It will not be possible for this Court under these circumstances to grant any relief."

4. The Petitioners cannot claim any entitlement to continue after the retirement from service of the original allottees to whom the service quarters were allotted. In the reply that has been filed by the Collector, Mumbai Suburban District, it has been stated that out of land bearing Survey No. 141 A, CTS 833 admeasuring 1,85,049 sq. mtrs, 12 buildings were erected between 1965 and 1975 on an area admeasuring 19,000 sq. mtrs. for accommodating government servants who are in service of the Seventh Respondent. An area admeasruing 4600 sq. mtrs is reserved for a playground, while an area admeasuring 8500 sq. mtrs. was reserved for a recreation ground. On 24th March, 1981 an area admeasuring 4000 sq. mtrs was given to a school on occupancy

basis. The area which was reserved for a playground was allotted to Gyan Kendra for using as a playground. Certain allotments were made out of CTS No.833 from time to time. In the affidavit, it has been stated that there is no vacant land available in Survey No.141 CTS No. 833 for allotment. The application submitted by the Petitioners on 27th December, 2004 was sent by the Government to the Fourth Respondent. The Fourth Respondent has reported that redevelopment of the existing 12 buildings through a private builder is not feasible or permissible, but those buildings could be developed through the agency of MHADA for the benefit of government servants who are in service. The representation is pending with the government. The Learned Associate Advocate General states that the representation will be disposed of within a period of two months from today.

5. In my view, having regard to the fact that the accommodation in the occupation of the Petitioners constitutes service quarters, no interference by this Court under Article 226 of the Constitution is warranted. Service quarters by their definition

are intended to accommodate employees who are in service and it is impossible to countenance a situation where employees to whom government quarters are allotted as part of the exigencies of service can claim an absolute right of ownership after retirement. This would be clearly contrary to public interest and cannot be permitted. The Petitioners have applied to government for allotment of an appropriate plot of land for a co-operative society. It is needless to add that the government would consider the representation sympathetically in accordance with law. In so far as the grievance in the present petition is considered, that grievance is lacking in merit. In view of the ensuing Diwali and having regard to the long period of occupation of the Petitioners, time to vacate the premises is granted until 31st December, 2006 subject to each of the Petitioners filing an undertaking of all the adult members of the family to vacate by that date, subject to such final decision that may be taken on the pending representation by the Government. The undertaking shall be filed within a period of one week from today and shall include an undertaking to pay all the arrears of rent, upto date. The Petition is dismissed.